

MOUNTAINS RECREATION AND CONSERVATION AUTHORITY

August 4, 2004, 3:00 p.m. – Agenda Item VI

Resolution No. 04-106

RESOLUTION OF THE GOVERNING BOARD OF THE MOUNTAINS RECREATION AND CONSERVATION AUTHORITY ADOPTING ENGINEER'S REPORT, CONFIRMING THE ANNUAL LEVY OF MAINTENANCE ASSESSMENT FOR FISCAL YEAR 2004-2005, AND DIRECTING RELATED ACTIONS FOR THE SANTA MONICA MOUNTAINS OPEN SPACE PRESERVATION ASSESSMENT DISTRICT NO. 2, LOS ANGELES

Resolved, That the Governing Board of the Mountains Recreation and Conservation Authority hereby:

1. FINDS that this Board has heretofore conducted and completed proceedings for the Santa Monica Mountains Open Space Preservation Assessment District No. 2 Los Angeles (the "Assessment District") pursuant to the Municipal Improvement Act of 1913, Division 12 of the California Streets and Highways Code (the "Act"), and a Resolution of Intention to Make Acquisitions and Improvements adopted by this Board on June 24, 2002 (the "Resolution of Intention"), and in such proceedings the Authority made provision for the annual levy of maintenance assessments under Section 10100.8 of the Act; and
2. FINDS that by its Resolution No. 04-96, adopted July 7, 2004, of this Board initiated proceedings for the levy of maintenance assessments for the Assessment District for the captioned fiscal year (the "Fiscal Year") to pay for the maintenance activities (the "Maintenance") to be financed by the Assessment District as described in said resolution; and
3. FINDS that Shilts Consultants, Inc., Fairfield, California, as the "Engineer of Work" for the Assessment District prepared and filed with the Authority a report (the "Engineer's Report") showing the estimated costs and apportionment of maintenance assessments for the Maintenance for the Fiscal Year. Reference is hereby made to the Engineer's Report for a full and detailed description of the improvements, the boundaries of the Assessment District, and the maintenance assessments upon assessable lots and parcels of land within the Assessment District for the Maintenance for the Fiscal Year; and
4. FINDS that August 4th, 2004, 3:00 p.m. at Bel Air Presbyterian Church, 16221 Mulholland Drive, Los Angeles, California, were appointed, as the time and

place for a public hearing to take testimony and for hearing protests and final action upon the Engineer's Report, notices of which hearing were duly given by publication; and

5. FINDS that the hearing was held, and all persons interested desiring to be heard were given an opportunity to be heard, and all matters and things pertaining to assessments for the Maintenance were fully heard and considered by this Board, and any protests, both written and oral, were duly heard and considered;

NOW, THEREFORE, IT IS ORDERED as follows:

1. No Majority Protest; Protests Overruled. The protests against the annual levy of assessments for the District, as a whole or as to any part thereof, or against the engineer's estimate of costs and expenses, in whole or in part, or against the diagram or the assessment to pay for the costs and expenses thereof, in whole or in part, written and oral, are hereby overruled.
2. Public Interest. The Board determines that the public interest, convenience and necessity require that the levy of annual maintenance assessments for the Assessment District and that expenses of the Maintenance must be incurred annually to maintain the level of benefit to the assessed parcels in the Assessment District and that the level of benefit would otherwise decline more rapidly than usual for comparable public acquisitions and improvements because of circumstances which do not ordinarily affect such public acquisitions and improvements.
3. District Described. The Assessment District specially benefitted and to be assessed to pay the costs and expenses thereof, and the exterior boundaries thereof, are as shown by the assessment diagram thereof filed in the office of the Authority's Executive Officer, which map is made a part hereof by this reference.
4. Engineer's Report Approved. The Engineer's Report, in the form on file with the Authority and to which reference is hereby made for further particulars, including the estimates of costs and expenses, the apportionment of maintenance assessments, is hereby approved and confirmed and shall stand as the Engineer's Report for these and all future proceedings for the Assessment District. Final approval of the Engineer's Report is intended to and shall refer and apply to the Engineer's Report, or any portion thereof, as amended, modified, revised or corrected by, or pursuant to and in

accordance with, any resolution or order, if any, heretofore duly adopted or made by this Board.

5. Benefits Determined. Based on the oral and documentary evidence, including the Engineer's Report, offered and received at the public hearing, this Board expressly finds and determines that:
 - (a) each of the several subdivisions of land in the Assessment District will be specially benefitted by the maintenance activities at least in the amount, if not more than the amount, of the maintenance assessment apportioned against the subdivisions of land, respectively; and
 - (b) there is substantial evidence to support, and the weight of the evidence preponderates in favor of, the finding and determination as to special benefits.
6. Assessments Confirmed and Levied. This Board hereby orders that the maintenance assessments be confirmed and levied to pay for the Maintenance for the Fiscal Year and are hereby levied. For further particulars pursuant to the provisions of the Act, reference is hereby made to the Engineer's Report.
7. Filing Ordered. The Executive Officer shall forthwith cause a copy of the assessment roll sufficient to collect the assessments upon the tax roll for the Fiscal Year, to be filed in the office of the County Auditor/Tax Collector or other official responsible for the preparation and sending of the property tax bills of the County of Los Angeles.
8. Proceeds of Collections. The Authority shall cause the proceeds of the collection of the maintenance assessments to be deposited in as special fund, held by the Authority for the Assessment District (the "Maintenance Fund"). The Maintenance Fund may be invested in lawful investments for the Authority and consistent with its applicable investment policies. The moneys in the Maintenance Fund shall be applied to the Maintenance related, approved expenses of the Authority for the Assessment District.
9. Effective Date. This resolution shall be effective upon the date of its adoption.

Further Resolved, That the Governing Board of the Mountains Recreation and Conservation Authority, hereby:

1. FINDS that the proposed action is consistent with the Santa Monica Mountains Comprehensive Plan.
2. FINDS that the proposed action is categorically exempt from the provisions of the California Environmental Quality Act (CEQA).
3. ADOPTS the staff report and recommendation dated August 4, 2004
4. AUTHORIZES the Executive Officer to do any and all acts necessary to carry out this resolution and any recommendations made by the Governing Board.

Chairperson

AYES:

NOS:

ABSTAIN:

ABSENT:

I HEREBY CERTIFY that the foregoing resolution was adopted at a special meeting of the governing board of the Mountains Recreation and Conservation Authority, duly noticed and held according to law, on the 4th day of August, 2004 at 3:00 p.m.

Date:

Executive Officer